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## SCOTTISH BORDERS COUNCIL

MINUTES of Meeting of the SCOTTISH COUNCIL held in Council Chamber, Council Headquarters, Newtown St. Boswells on Thursday, 27 August, 2015 at 10.00 am

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Present:- Councillors G. H. T. Garvie (Convener), J. Brown (Vice Convener), W. Archibald, M. Ballantyne, S. Bell, C. Bhatia, K. Cockburn, M. J. Cook, A. Cranston, V. M. Davidson, G. Edgar, J. A. Fullarton, I. Gillespie, J. Greenwell, B Herd, G. Logan, S. Marshall, W. McAteer, D. Moffat, S. Mountford, A. J. Nicol, D. Parker, D. Paterson, F. Renton, S. Scott, R. Smith, R. Stewart, J. Torrance, T. Weatherston, B White

Apologies:- Councillors S. Aitchison, J. Campbell, J. G. Mitchell, G. Turnbull  
In Attendance:- Chief Executive, Depute Chief Executive (People), Depute Chief Executive (Place), Service Director Neighbourhood Services, Service Director Commercial Services, Chief Social Worker, Chief Financial Officer, Chief Officer Audit & Risk, Clerk to the Council.

- 1. SCOTTISH BORDERS VIOLENCE AGAINST WOMEN PARTNERSHIP AWARDS 2015**  
Louise MacLennan, Chair of the Violence Against Women Partnership, and Councillor Moffat were pleased to launch the first Scottish Borders Violence against Women (VAW) Partnership Awards 2015. The awards had been developed to recognise the commitment and excellent work of individuals in Borders' communities who had made a significant contribution addressing violence against women/girls in the Scottish Borders. The VAW Partnership collectively agreed that there should be some way to recognise these efforts, and that "partnership" also included communities. This was the first award but it was hoped in future years that additional awards could be made to a wider range of individuals and/or organisations. The 2015 Award was sponsored by Scottish Borders Council's Safer Communities Team. The closing date for nominations was Friday 2 October, with the winner being announced on 25 November, which was the International Day for the Elimination of Violence Against Women.

**DECISION**  
**WELCOMED the introduction of these awards.**

- 2. CONVENER'S REMARKS.**  
The Convener commented on the Borders Railway Willie Wonka chocolate treats in schools. An enormous amount of work had gone, and continued to go, into organising the various opening events and he paid tribute to the Leader, Chief Executive and the whole SBC Team while looking forward to this truly historic day. He also asked those present that, during this celebratory period, they spare a thought for the desperate people in Africa and the Middle East struggling to survive and escape from horrific situations.

**DECISION**  
**NOTED.**

- 3. MINUTE**  
The Minute of the Meeting held on 25 June 2105 was considered.

**DECISION**  
**AGREED that the Minute be approved and signed by the Convener.**

#### 4. **COMMITTEE MINUTES**

The Minutes of the following Committees had been circulated:-

Police, Fire & Rescue and Safer Communities Board	15 May 2015
Cheviot Area Forum	3 June 2015
Scrutiny	11 June 2015
Community Planning Strategic Board	11 June 2015
Local Review Body	15 June 2015
Lauder Common Good Fund	16 June 2015
Teviot & Liddesdale Area Forum	16 June 2015
Pension Board	18 June 2015
Pension Fund	18 June 2015
Civic Government Licensing	19 June 2015
Health & Social Care Joint Integration Board	22 June 2015
Peebles Common Good Fund	25 June 2015
Selkirk Common Good Fund	25 June 2015
Planning & Building Standards	29 June 2015
Audit & Risk	30 June 2015
Civic Government Licensing	24 July 2015
Planning & Building Standards	3 August 2015

#### **DECISION**

**APPROVED** the Minutes listed above subject to paragraph 4.1 below.

#### 4.1 **AUDIT AND RISK COMMITTEE**

With reference to paragraph 4 of the Minute of the Audit and Risk Committee of 30 June 2015, approval was recommended in respect of the revised Corporate Counter Fraud Policy and Strategy.

#### **DECISION**

**AGREED** to approve the revised Corporate Counter Fraud Policy and Strategy.

#### **MEMBER**

Councillor Davidson joined the meeting during the undernoted item.

#### 5. **OPEN QUESTIONS**

The questions submitted by Councillors Logan, Mountford, Bell and Cockburn were answered.

#### **DECISION**

**NOTED** the replies as detailed in Appendix I to this Minute.

#### 6. **AUDIT COMMITTEE ANNUAL REPORT 2014/15**

There had been circulated copies of a report by the Chief Officer Audit & Risk containing the Audit & Risk Committee Annual Report 2014/15 which incorporated its annual self-assessment using the CIPFA Audit Committees Guidance. The report detailed the outcome of the self-assessments which indicated a high degree of performance against the good practice principles. However, some areas of improvement to enhance and fully demonstrate the effectiveness of the Audit & Risk Committee were identified. The key improvement actions were to:-

- Formally obtain feedback on its performance from those interacting with the Committee;
- Monitor compliance and outcomes of the Committee's recommendation to apply Gateway Review and lessons learned to major projects and programmes;
- Enhance the Committee's review of the effectiveness of performance management arrangements; and

- Improve the Committee's scrutiny of arrangements for ensuring value for money.

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Steps would be taken to consider the business of the Committee during 2015/16 to cover those themes. Councillor Ballantyne, Chairman, commented on the work of the Committee and thanked officers for their input. She advised that new external representatives were about to be recruited.

## **DECISION**

### **AGREED:-**

- (a) **to approve the Audit & Risk Committee Annual Report 2014/15 appended to the report which incorporated its self-assessments using the CIPFA Audit Committees Guidance; and**
- (b) **that the Audit & Risk Committee Annual Report 2014/15 would be published on the Council's website.**

## **7. FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009**

With reference to paragraph 11 of the Minute of 19 February 2015, there had been circulated copies of a report by the Service Director Commercial Services seeking approval of SEPA's Flood Risk Management Strategies, Prioritisation of Actions Version 4.0 as prepared by SEPA for delivery by the Council as part of the Flood Risk Management Planning Cycle 2016-2022. The report listed the actions identified by SEPA to be taken forward by Scottish Borders Council in the Flood Risk Management Planning Cycle 1 2016 -2022. There were subject to Scottish government funding, the mechanism for the allocation of funding was still currently under development and would be finalised in September. There was a high degree of confidence that the funding allocation for Flood Schemes would cover all 41 proposed schemes with Hawick Flood Protection Scheme ranked number 15 nationally. Council approval was now required for SEPA's Prioritisation of Actions Version 4.0\_DRAFT prior to SEPA gaining internal approval and taking the final Flood Risk Management Strategies which will include v4.0\_FINAL of the Prioritisation of Actions to the Scottish Minister. Members questions on funding, surface water management plans, and specific schemes were answered.

## **DECISION**

**AGREED to approve SEPA's Flood Risk Management Strategies, Prioritisation of Actions Version 4.0\_DRAFT as prepared by SEPA for delivery by the Council as part of the Flood Risk Management Planning Cycle 2016 -2022**

## **DECLARATION OF INTEREST**

Councillor Edgar declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

## **8. REVIEW OF IMPLEMENTATION OF THE SOCIAL CARE (SELF-DIRECTED SUPPORT) ACT 2013**

With reference to paragraph 14 of the Minute of 26 June 2013, there had been circulated copies of a report by the Chief Social Work Officer detailing progress in implementing the duties of the Social Care (Self-directed Support) (Scotland) Act 2013 which came into force on 1 April 2014. Whilst the Act applied to all age groups, the report focused on implementation within adult services. The report explained that the Social Care (Self-directed Support) (Scotland) Act 2013 (the Act) came into force in April 2014. Its aim was to ensure that people eligible for social care support had control and choice over their support arrangements. As of August 2015 there were 349 people receiving support through the Act. In order to ensure that new duties were being met a review had been undertaken and this report highlighted the key findings. The review was informed by people using the self-directed support (SDS) approach, social work managers and practitioners, and providers who responded to a questionnaire. The majority of people felt

that the Council was fully adhering to the duties of the Act. In some duties it was recognised that there was a need for further progress. This Act was in year five of a ten year national SDS strategy, and it was recognised nationally that this was a large scale transformational change that would take time. The questionnaire responses from social work staff and providers had helped to identify what was working well within SDS and what were the challenges. Most staff were very positive about SDS and its focus on the person's choices and outcomes. Learning from the review had confirmed that key areas to address included an urgent need for the SDS documentation to be incorporated into the social work information system, framework; the need for a review of the resource allocation system to follow from this; the extension of public information; opportunities for continuous learning and the need for continuing leadership support with the change. Members discussed the report and asked that future reports include users' comments.

## **DECISION**

### **AGREED to:-**

- (a) note the Council's progress in meeting the duties under the Act; and**
- (b) endorse key actions to progress implementation as detailed below:**
  - (i) implement the new paperwork to reflect SDS. This would provide people with clear information about the option chosen, and on the budget for their support. It would also reduce paperwork for practitioners;**
  - (ii) collect information on whether people's outcomes were being met through their support and report on this;**
  - (iii) promote cultural change through the organisation by continuing to facilitate shared learning amongst stakeholders. This should improve understanding about SDS;**
  - (iv) meet the duty to provide information on a range of resources within service provision and the community by exploring the provision of a resource directory with providers and the third sector;**
  - (v) consider how an outcomes approach could be integrated into budget allocation decisions. This should provide a robust system for allocating budget that took into account how people wanted to meet their needs; and**
  - (v) review commissioned services in light of demand for more options.**

## **DECLARATION OF INTEREST**

Councillor Cranston declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

### **9. EASTER LANGLEE LANDFILL SITE - WAY FORWARD**

With reference to paragraph 10 of the Minute of 25 June 2015, there had been circulated copies of a report by the Service Director Neighbourhood Services on the implications of the Council's decision to terminate the contract with New Earth Solution (NES) for the treatment of waste, on Easter Langlee Landfill Site and the proposed way forward. The report explained that under the NES Contract it was anticipated that the majority of the Council's Residual waste (i.e. black bin waste) would in future have been diverted from landfill via the Waste Treatment Facility planned for the Easter Langlee Site. The termination of the NES contract meant that residual waste would continue to be landfilled at current levels while an alternative solution was developed and as a result the currently operational landfill void was expected to reach capacity in the Summer/Winter of 2017. In addition from January 2021, landfill sites in Scotland would no longer be able to accept

biodegradable municipal waste without the material having met stringent pre-treatment processes. In order to comply with these new requirements the Council would either have to treat its biodegradable municipal waste in the Borders prior to landfill, or transfer it out of the Borders for treatment. The development of a Waste Treatment Facility in the Borders was not a viable option at the current time and an interim solution was required. The development of a permanent waste treatment facility would be considered and evaluated during the development of the new Waste Management Plan in consultation with the Member-Officer Reference Group. A landfill options appraisal had now been undertaken to assess the options available to manage residual waste in the Borders and ensure compliance with the 2021 landfill bans. Three options had been considered all of which involved the closure of the landfill site and development of a new Waste Transfer Station but at different points over the period 2017 to 2021. Following appraisal of the three options it was proposed that Option A, to close the landfill in Summer/Winter 2017 when current capacity had been reached and construct a waste transfer station at Easter Langlee on the old proposed NES site in time for the transfer of waste from all regions onto alternative facilities from Summer/Winter 2017, was the best way forward. Members received a presentation from the Service Director and the Chief Financial Officer on the proposal which included details of the financial implications and the flexibility to accommodate the new Waste Strategy. Members discussed the proposal in detail including the use of the same consultants, transporting waste out of the region, the closing of Easter Langlee landfill site, the waste transfer building, the NES technology and gate fees. Officers gave assurance to Members that they would be regularly apprised of progress.

#### **DECISION**

##### **AGREED:-**

- (a) to support and agree the delivery of Option A as outlined in the report;**
- (b) to note the capital and revenue costs associated with the delivery and ongoing cost of Option A as detailed in the report; and a**
- (c) the budgetary provision for these costs in the roll forward of the revenue and capital plan 2016/17.**

#### **10. STANDARDS COMMITTEE MEMBERSHIP**

Councillor Edgar, seconded by Councillor Torrance, moved that Councillor Renton be appointed to fill the vacancy on the Standards Committee and this was unanimously approved.

#### **DECISION**

**AGREED that Councillor Renton be appointed to the Standards Committee.**

#### **11. MOTION BY COUNCILLOR LOGAN**

Councillor Logan, seconded by Councillor Nicol, moved approval of the following Motion as detailed on the agenda:-

“The Scottish Borders Council instructs the Leader to write to the Scottish Government expressing concerns over its proposals for the River Tweed in their Wild Fisheries Review.”

Copies of a proposed draft letter were tabled at the meeting. Councillor Logan spoke in support of his motion. Councillor Nicol highlighted the importance of the River Tweed, which currently supported 500 jobs and contributed £20m per annum to the Borders economy. Members agreed that the management system in place for the River Tweed should be used as an example for other areas where there was poor management but that there should be no changes to the current operating model. Councillor Nicol proposed that the motion be extended to include seeking a meeting with Scottish

Ministers and all stakeholders to discuss the position of the Tweed. Members unanimously agreed to accept the expanded Motion.

**DECISION**

**AGREED** that the Leader write to the Scottish Government expressing concerns over its proposals for the River Tweed in their Wild Fisheries Review - as per the draft letter circulated at the meeting - subject to the addition of a request that Scottish Ministers meet with the Council and any other River Tweed Stakeholders to discuss the retention of the current arrangements.

12. **PRIVATE BUSINESS**

**DECISION**

**AGREED** under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in Appendix II to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1, 6, 8 and 9 of Part I of Schedule 7A to the Act.

**SUMMARY OF PRIVATE BUSINESS**

13. **MINUTE**

The private section of the Council Minute of 25 June 2015 was approved.

14. **COMMITTEE MINUTES**

The private sections of the Committee Minutes as detailed in paragraph 4 of this Minute were approved.

**DECLARATIONS OF INTEREST**

Councillors Cockburn and Edgar declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

15. **SB CARES STAFF TERMS AND CONDITIONS**

Members considered and approved a joint report by the SB Cares Managing Director and the Chief Social Work Officer.

*The meeting concluded at 12.40 pm*

**SCOTTISH BODERS COUNCIL**  
**27 AUGUST 2015**  
**APPENDIX I**

**OPEN QUESTIONS**

**Question from Councillor Logan**

**1. To the Executive Member for Social Work**

Do you agree that we have an issue in the Scottish Borders in that we have only one rate of Local Housing Allowance for the whole area? As you may be aware, the rental levels in Tweeddale are generally higher than elsewhere in the Borders and affordable property for people on low income is an issue in that area.

**Reply from Councillor Renton**

Local Housing Allowance rates are set based on Broad Rental Market Areas. There are 18 of these areas across Scotland and are generally defined as being an area within which a resident could reasonably be expected to live which are within reach, by public transport of all the regular facilities and services people generally need. For Tweeddale most of these are accessed within the Scottish Borders.

In answer to Councillor Logan's question, Yes, one rate of Local Housing Allowance for the whole area has been and continues to be an issue in that it could be argued that it potentially disadvantages people reliant upon housing benefit accessing private rented sector homes within their own communities that are in the more affluent parts of Scottish Borders where rents are higher. That is why this administration is developing affordable housing for rent at below Market rent in the Tweeddale area to assist the very people Councillor Logan is rightly concerned about.

Note: The LHA Rate is set are set by the Scottish Government based on market evidence

**2. To the Leader**

Do you agree that there should now be a public consultation on the Great Tapestry of Scotland project given the increasing level of public debate on this controversial issue?

**Reply from Councillor Parker**

The Council has made its decision in respect of the Great Tapestry of Scotland in a careful and very transparent way. Members first considered the matter in May 2014. There followed preparation and discussion, over six months, of the detailed business case and the inclusion of the Tapestry proposals within the Borders Railway Blueprint.

At Council in December 2014 (following a seminar for all Members) Members concluded that the Tapestry project should be supported. I have no doubt at all that every Member has discussed the project with their constituents and been able to represent their views and feelings in the discussions we have had.

Moving forward there is a planning application on which the public can comment and we believe (although it has not been confirmed yet by the petitioners) that a petition will be brought to the Petitions and Deputations Committee on 1 October.

Members will also be interested to know that as part of the opening of the Borders Railway, Scottish Ministers will be promoting the Scottish Borders with the Tapestry as the centre piece, at the Milan Expo. There will also be exhibitions at Waverley Station, Galashiels Transport Interchange, Abbotsford House and the National Mining Museum about the Tapestry. I am sure the Public will continue to be engaged in this Project

**Supplementary**

Councillor Logan referred, with regard to controversial issues, to a consultation on the 3G pitch which was carried out in his Ward and asked why a similar exercise was not carried out within the Leaders Ward on the Tapestry. Councillor Parker replied that people within his Ward had had numerous opportunities to discuss the Tapestry.

### 3. To the Leader

The City of Edinburgh Council procedure for open questions is as follows :- The question is submitted a week in advance, by convention the answer is given in writing at least one and half days before the Council meeting. At the Council meeting the questioner is given the opportunity to ask orally a supplementary question based on the written answer. The Executive member then has the opportunity to answer the supplementary question. The supplementary question and the answer given is minuted. (not necessarily verbatim)

Would you consider introducing this procedure for a trial period of six months in the interests of openness and democracy?

#### Reply from Councillor Parker

No, I do not wish to consider introducing the Edinburgh procedure for questions at Council for a trial period. I believe the current procedure within this Council for Questions to the Leader and Executive Members is already sufficiently open and transparent. The Clerk to the Council will include a summary of any supplementary question and answer within the Minute of the meeting from now on if this helps to aid clarity.

#### Supplementary

Councillor Logan expressed dissatisfaction with the current process and some of the replies he received which Councillor Parker did not accept.

### Question from Councillor Mountford

#### 1. To the Depute Leader Finance

Can you please explain why the council's carbon tax liability for 2014/15 has increased by 73% to £315,000? and inform us of what actions are being taken to prevent it rising further?

#### Reply from Councillor Parker on behalf of Councillor Mitchell

The Council's carbon tax liability increased from £182,000 in 2013/14 to £315,000 for two principal reasons.

Firstly our tonnage of CO2 increased due to the inclusion of our street lighting consumption in the calculation of our tax liability for the first time in 2014/15. This was excluded from the calculation of Carbon tax liability before 2014/15 and therefore any street lighting electricity consumption previously did not attribute to our overall carbon tax costs.

Street lighting is the biggest difference; however a second significant factor was an increase in cost per tonne of carbon (from £12/tonne in 13/14 to £15.90 per tonne in 14/15. This also contributed £15,779 to the increase.

It is worth noting that despite costs increasing, overall, SBC energy consumption actually reduced from 54,534 kilo watt hours in 2013/14 to 53,149kwh in 2014/15 - a reduction of 2.5%. The council continues to invest in a range of actions to reduce our energy consumption including LED street lighting, insulation, boiler upgrades and to explore new initiatives for example solar panels on our building roofs.

#### Supplementary

Councillor Mountford asked that we accelerate energy saving measures such as street light replacements and insulation. Councillor Parker agreed that we should always be looking for ways to reduce our carbon liability but advised that with items such as street lighting the ability of the market to supply our requirements was a problem.

#### 2. To the Executive Member for Roads and Infrastructure

What is the total amount of subsidy being paid to bus companies for services in the Cheviot Area and how does that compare with the other SBC localities?

### Reply from Councillor Edgar

The Council spends £1.9 million annually on subsidised local bus services across the Scottish Borders.

It would be almost impossible to break this figure down in to localities as many of our bus routes crossover in to several different administrative areas.

### Supplementary

Councillor Mountford asked if he could be given an assurance that bus subsidies were broadly equal across localities. Councillor Edgar advised that he could not give such an undertaking but confirmed that they were based on areas of most need.

### **Question from Councillor Bell**

#### To the Executive Member for Roads and Infrastructure

There is continued demand from the public for steps to be taken to reduce the speed of vehicles in residential areas, (Recent demands for 20 mph zones in Peebles, in Hawick and in Selkirk to name but a few) but I have heard that officers are being advised against introducing advisory 20's Plenty Zones.

An initiative to get a pilot scheme of an enforceable 20 mph limit in the residential areas of Cardrona was rejected by the Environment & Infrastructure Committee. Given the establishment of similar zones in Edinburgh, when will Scottish Borders Council catch up with the emerging practice in establishing 20 mph enforcement zones to make our residential streets safe for children, for pedestrians and for cyclists?

What steps are you prepared to take to support such an initiative?

### Reply from Councillor Edgar

The speed of traffic in residential areas has always been a topic of concern. Any complaints received are investigated and action taken as appropriate in liaison with Police Scotland.

Council policy remains that, by and large, 20 mph limits are restricted to immediately outside schools and on the approaches to schools. The rationale for this is:-

- This is where they can be most effective.
- Previous traffic calming initiatives have been shown to become less effective the wider they have been introduced.
- Outside schools the limits are regularly enforced and Police Scotland have previously indicated they would be unable to offer similar support on a wider basis

In addition there would also be significant financial implications both in terms of initial set up and maintenance costs. It should also be noted that the Council currently struggles to maintain its existing 20 mph electronic sign provision.

Recent Transport Scotland guidance on 20 mph speed limits is indeed that 20 mph limits should no longer be introduced on an advisory basis (i.e. Twenty's Plenty zones). It does however go on to say that Local authorities who have previously introduced advisory limits can still use these; albeit that the 20 mph limit roundels on the carriageway should not be renewed.

### Supplementary

Councillor Bell asked if, given the pressure on Twenty's Plenty zones, if consideration could be given to reviewing the policy on the provision of enforceable 20 mph zones. Councillor Edgar advised that this would require to be carried out in conjunction with Police Scotland but he would raise the matter with officers.

### **Question from Councillor Cockburn**

#### To the Leader

In respect of the tragedy which happened in Glasgow last Christmas, can you please reassure us that all steps and processes are in place, at this Council, to mitigate any health problems or potential health problems of operators of Council vehicles and machinery?

### Reply from Councillor Parker

The Council has longstanding processes and procedures in place to meet its obligations to monitor the health of its fleet drivers. These include:-

- Pre-employment health checks;
- DVLA Statutory 5 year medical assessments beyond the age of 45 for fleet drivers;
- Attendance management policies with follow up actions which provide the opportunity for driver's health issues to be recorded and monitored by management and the Occupational Health provider for SBC.

Also built into this process are a series of checks and balances that enable managers to monitor performance, compliance with legislative obligations and have reassurance that health conditions which are likely to impact upon the employee's ability to drive are regularly assessed by the medical profession via GP's and Occupational Health Service.

All staff members are also made aware of their obligations to keep us informed of any event/issue which may affect their employment. This is not limited to health issues.

However SBC, like any other employer, must rely on staff to act appropriately and we cannot guarantee that this will always happen.

We will continue to monitor the outputs and recommendations from the Fatal Accident Inquiry and, where required, adjust our process and procedures accordingly.